

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
WESTERN DISTRICT**

BERKLEY NATIONAL INSURANCE  
COMPANY,

Plaintiff,

V.

XTO ENERGY, INC.,

Defendant and Third-  
Party Plaintiff

V.

COMMERCE AND INDUSTRY INSURANCE  
COMPANY, TORUS NATIONAL  
INSURANCE COMPANY, N/K/A  
STARSTONE NATIONAL INSURANCE  
COMPANY, AND SENECA SPECIALTY  
INSURANCE COMPANY,

### Third-Party Defendants.

Civil Action No. 1:18-cv-195

**BERKLEY NATIONAL INSURANCE COMPANY'S  
MOTION FOR SUMMARY JUDGMENT**

Pursuant to Federal Rule of Civil Procedure 56, Plaintiff Berkley National Insurance Company requests that the Court enter summary judgment in Berkley's favor on its declaratory judgment claim, and dismiss Defendant XTO Energy, Inc.'s counterclaims. This motion is based on the accompanying memorandum filed in accordance with Local Rule 7.1, together with all the files, records, and proceedings to date.

As the memorandum in support of Berkley's motion for summary judgment contains confidential information, Berkley is filing a copy of its memorandum with confidential

information redacted, as well as a complete copy of the memorandum under a motion for leave to seal.

Respectfully submitted,

/s/ Elizabeth H. Rivers

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**ATTORNEYS FOR BERKLEY NATIONAL  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of this document was served on all counsel of record in this case, identified below, on February 5, 2020, electronically through the electronic case filing system of the court:

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/s/ Elizabeth Rivers  
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